

AGENDA



Thursday, August 23, 2007

**Public Hearings and Possible Actions
RECOMMENDATION FOR COUNCIL ACTION****Item No. 61**

Subject: Conduct a public hearing and consider an appeal of a decision of the Building and Fire Code Board of Appeals upholding the approval and issuance of a building permit relating to property located at 2104 Stamford Lane.

Fiscal Note: There is no unanticipated fiscal impact. A fiscal note is not required.

For More Information: Jessica King, 974-2728; Joi Harden, 974-3345

Boards and Commission Action: Motion to grant the appeal received 3 votes, and 1 vote against the appeal from the Building and Fire Code Board of Appeals. In order to overturn a Building Official decision, 4 votes in favor are required.

The appellant, Michael Cannatti, is appealing the Building and Fire Code Board of Appeals decision to uphold the approval and issuance of a building permit for a proposed single family development at 2104 Stamford Lane. Section R105.3.2 of the 2003 International Residential Code (IRC) provides that “an application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.”

The appellant, Michael Cannatti, is the owner of a home located at 2100 Stamford Lane. Mr. Cannatti's primary reason to overturn the Building Official's decision is based on the fact that the owner had not filed a written request for an extension prior to the expiration date of August 9, 2006, as required by the 2003 IRC. Mr. Cannatti states that because the owner did not file a written request for an extension until after the expiration date, the application expired and could not be revived when the staff approved it on February 9, 2007.

Staff Response

Section R105.3.2 states that a building permit application is considered abandoned after 180 days unless the application is pursued in good faith. The applicant in this case was in constant communication with the City staff regarding the application and was diligently pursuing the application. The staff determined that under the terms of Section 105.3.2 of the 2003 IRC, the application did not expire and, therefore, that a written request was not necessary. However, in recognition of the changing regulations for single-family development, staff changed its procedure and began requiring a written request for an extension in all cases. The written request will provide a clear indication of when an application is active and when new regulations are applicable to the property. In this case, the applicant made a verbal request and the staff verbally approved a 180-day extension. The staff asked the applicant to also submit the request in writing. The applicant did not submit the request until 180 days after the filing date had passed. However, because the applicant was diligently pursuing the application, the filing was not late and did not result in the expiration of the application.